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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

D.P.L. ENTERPRISES, INC.
D/B/A AIR-CARE,

Plaintiff,

v.

GREEN AIR DIRECT., INC.,

Defendant.

Case No. 2:10-cv-01241-JCM-RJJ

ORDER FOR DEFAULT
JUDGMENT AGAINST GREEN AIR
DIRECT, INC.

An application having been duly made by Plaintiff D.P.L. Enterprises, Inc. d/b/a Air-Care ("Plaintiff"), for default judgment against Defendant Green Air Direct ("Defendant") pursuant to Rule 55 of the Federal Rules of Civil Procedure; the Defendant having failed to respond to, or answer, Plaintiff's Complaint previously served upon Defendant; the default having been entered by the Clerk of the Court for failure to answer or otherwise defend as to Plaintiff's Complaint; and it appearing that Defendant is neither an infant nor an incompetent person nor in the military service of the United States, and with good cause appearing therefore,

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that judgment is entered in favor of Plaintiff against Defendant on all claims, and, it is further ordered and

1 adjudged that such judgment shall include the following specific findings of fact and award of
2 specific relief:

- 3 (a) Plaintiff is the owner of a certain AIR-CARE INDOOR QUALITY
4 SPECIALISTS trademark (U.S. Registration No. 2,581,421) used in relation with
5 the sale and distribution of air filters and for other goods and services, as
6 identified in the Complaint;
- 7 (b) Plaintiff holds the copyright to its brochures promoting its Anti-Microbial
8 Electrostatic Air Filters ("Brochures");
- 9 (c) Defendant is Plaintiff's direct competitor and sells its products online at
10 www.greenairdirect.com;
- 11 (d) Defendant substantially copied the Brochures and distributed the infringing
12 brochures to Defendant's existing and potential customers, including Plaintiff's
13 customers;
- 14 (e) Plaintiff created its own custom size filter label ("Label");
- 15 (f) Defendant substantially copied the Label and was distributing the infringing label
16 on its products to Defendant's existing and potential customers, including
17 Plaintiff's customers;
- 18 (g) Plaintiff holds the copyright to its website, www.air-care.com;
- 19 (h) Defendant substantially copied Plaintiff's website;
- 20 (i) Plaintiff holds a copyright to the customized online shopping cart on its website;
- 21 (j) Defendant copied Plaintiff's online shopping cart for use on Defendant's website,
22 including the copying of Plaintiff's customer service phone number as
23 confirmation of a sales transaction on Defendant's online shopping cart;
- 24 (k) Defendant's copying of Plaintiff's brochures, labels, web sites and online
25 shopping cart is likely to cause confusion as to the source and origin of
26 Defendant's services;
- 27 (l) Should Defendant's copying of Plaintiff's brochures, labels, web sites and online
28 shopping cart continue, Plaintiff will continue to suffer irreparable injury to its

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1 good will and reputation which was established through use of the Plaintiff's
2 trademark and copyrights, and for which an award of damages would be
3 inadequate;

4 (m) Defendant acted willfully in its infringement of Plaintiff's trademark and trade
5 dress;

6 (n) Defendant acted willfully in its infringement of Plaintiff's copyrights;

7 (o) Defendant has committed deceptive trade practice;

8 (p) Defendant has competed unfairly with Plaintiff; and

9 (q) Defendant is liable for its infringement.

10 **THEREFORE, IT IS HEREBY ORDERED** that Defendant pay Plaintiff the principal
11 sum of Thirty-Five Thousand Dollars (\$35,000.00) for compensatory damages to Plaintiff;

12 **IT IS FURTHER ORDERED** that Defendant pay Plaintiff the principal sum of Fifty
13 Thousand Dollars (\$50,000.00) for punitive damages to Plaintiff;

14 **IT IS FURTHER ORDERED** that Defendant pay Plaintiff the sum of Six-Thousand,
15 Eight-Hundred-Three Dollars and Twenty-Four cents (\$6,803.24) for fees, costs and expenses
16 incurred by Plaintiff through January 26, 2011, in the prosecution and defense of this matter;

17 **IT IS FURTHER ORDERED** that Defendant pay Plaintiff pre-judgment accrued
18 interest at 3.25% through judgment and post-judgment interest at the statutory rate equivalent to
19 the weekly average 1-year constant maturity Treasury yield, as published by the Board of
20 Governors of the Federal Reserve System, for the calendar week preceding the date of judgment;
21 and

22 **IT IS FURTHER ORDERED** that Defendant, its respective officers, agents, servants,
23 employees, and/or persons acting in concert or participation with them, or any of them, are
24 prohibited from using the intellectual property of Plaintiff, identified above, including the source
25 code for Plaintiff's website, Plaintiff's online shopping cart, Plaintiff's brochures, and Plaintiff's
26 size filter labels; and

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1 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the Court reserves
2 jurisdiction to award Plaintiff further attorney's fees incurred in the prosecution and collection of
3 this matter after January 26, 2011, and further costs incurred in the prosecution and collection of
4 this matter.

5 **IT IS SO ORDERED.**

6
7 DATED this 10th day of February, 2011.

8
9 
10 UNITED STATES DISTRICT JUDGE

11 Respectfully submitted by:

12 GREENBERG TRAUIG, LLP

13 /s/ Ronald D. Green Jr.

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